

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF NEVADA
 3 BEFORE THE HONORABLE LARRY R. HICKS, DISTRICT JUDGE

4 ORACLE USA, INC., a Colorado :
 5 corporation; ORACLE AMERICA, :
 6 INC., a Delaware corporation; :
 7 and ORACLE INTERNATIONAL : No. 2:10-cv-0106-LRH-PAL
 8 CORPORATION, a California :
 9 corporation, :
 10 Plaintiffs, :
 11 vs. :
 12 RIMINI STREET, INC., a Nevada :
 13 corporation; and SETH RAVIN, :
 14 an individual, :
 15 Defendants. :
 16

17 TRANSCRIPT OF CALENDAR CALL AND PRETRIAL CONFERENCE

18 August 26, 2015

19 Reno, Nevada

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 22 Court Reporter: Donna Davidson, RDR, CRR, CCR 318
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A P P E A R A N C E S (Continued)

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1 RENO, NEVADA, AUGUST 26, 2015, 10:10 A.M.

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3 P R O C E E D I N G S

4

5 THE COURT: Good morning. Have a seat, please.

6 COURTROOM ADMINISTRATOR: Today is the date and
7 time for a pretrial status conference and calendar call in
8 civil case 2:10-cv-106-LRH-PAL, Oracle USA, Inc., and
9 others, versus Rimini Street, Inc., and others.

10 Counsel, can you please state your appearances
11 for the record.

12 MR. ISSACSON: Bill Issacson, Your Honor, Boies,
13 Schiller & Flexner, for Plaintiff Oracle.

14 MR. RINGGENBERG: Kiernan Ringgenberg, Boies,
15 Schiller & Flexner, for Plaintiff Oracle.

16 MR. HIXSON: Tom Hixson, with Morgan Lewis, for
17 Plaintiff Oracle.

18 MR. POCKER: Rick Pocker, Boies, Schiller &
19 Flexner, for Plaintiff Oracle.

20 THE COURT: Okay. Welcome to all of you.

21 MR. WEBB: Good morning. Trent Webb, with
22 Shook, Hardy & Bacon, on behalf of the defendants, Your
23 Honor.

24 MR. RECKERS: Rob Reckers, Shook, Hardy & Bacon,
25 for the defendants, as well, Your Honor.

1 MR. STRAND: Good morning, Your Honor. Peter
2 Strand, Shook, Hardy & Bacon, on behalf of defendants.

3 MR. DYKAL: Good morning, Your Honor. Ryan
4 Dykal, Shook, Hardy & Bacon, on behalf of defendants.

5 MR. ALLEN: Your Honor, West Allen, from Lewis
6 Roca Rothgerber, on behalf of defendants.

7 THE COURT: All right. Welcome to all of you.
8 And then telephonically do we have anyone
9 appearing?

10 MR. MAROULIS: Yes, Your Honor. This is James
11 Maroulis, from Oracle, for plaintiffs.

12 THE COURT: All right. Thank you.

13 MS. DUNN: Good morning, Your Honor. Karen
14 Dunn, from Boies, Schiller & Flexner, representing Oracle.

15 MR. JINDAL: Good morning, Your Honor. This is
16 Nitin Jindal, from Morgan Lewis, representing Oracle.

17 THE COURT: All right. And according to my
18 notes here, we do not have any counsel for defendant
19 telephonically; is that correct?

20 MR. WEBB: That's correct, Your Honor.

21 THE COURT: All right. Thank you. All right.
22 This hearing has been scheduled for calendar call on our
23 upcoming trial.

24 Well, let me -- I'll cover some of the issues
25 that I'm aware of that may be of interest.

1 First of all, I note that I do have orders
2 pending on the motions in limine that have been filed. I
3 think there's a total of six of them which are pending
4 before me. And I expect that we'll have orders on most of
5 those today or tomorrow and orders on the remaining one or
6 two probably next week sometime.

7 I'd like also to confirm the trial schedule,
8 which we've issued orders on before, but just to make sure
9 that everyone's on the same page.

10 The Monday schedule will be from 1:00 to 5:00;
11 the Tuesday, Wednesday, and Thursday schedule will be from
12 8:00 a.m. until 2:00 or later, if necessary; and the Friday
13 schedule will be from 8:00 a.m. to approximately noon.

14 I don't believe -- I couldn't recall if we had
15 discussed the number of jurors. But I had proposed to have
16 nine jurors in the case.

17 As counsel are aware, we have to have six for a
18 verdict. And when we have more than six a unanimous
19 verdict is still required. But the Court was -- I'm of the
20 opinion that we should have nine based on prior experience
21 with these lengthier trials.

22 But if anyone has a problem with that, I
23 certainly would hear from them.

24 I'm also proposing limitation on opening
25 statements in this case of an hour. If either side has any

1 particular problem with that, I'm willing to hear from
2 counsel as well.

3 Jury selection -- of course, my order regarding
4 trial addressed proposed -- the submission of proposed
5 questions to jurors. I think I had mentioned this to you
6 in our last conference. But my practice on the voir dire
7 examination is that I will be posing the questions.

8 And typically I've had success just following
9 the outline of the questions that are submitted. There'll
10 undoubtedly be some that I may summarize or not ask
11 verbatim, as proposed, but the subject matter, if it's
12 appropriate, certainly will be addressed.

13 I also will offer sidebar conferences to counsel
14 for follow-up questions to particular jurors. If counsel
15 wish to have some follow-up that I have not conducted, I'll
16 certainly hear from you at sidebar and consider following
17 up on that.

18 Those were the immediate thoughts that I had
19 that I wanted to make sure that you were aware of in this
20 case.

21 So let me turn it over first to plaintiffs'
22 counsel. Are there issues or developments that plaintiffs'
23 counsel are concerned about or any particular responses to
24 the matters I've just raised?

25 MR. ISSACSON: No responses to the matters you

1 just raised, Your Honor.

2 Just to bring you up to date, the parties are
3 continuing to confer about any number of issues moving
4 forward to the trial.

5 In terms of the estimated length of the trial,
6 at the last conference I believe plaintiffs estimated that
7 our case would take approximately -- would take 10 trial
8 days. We think that -- and that's under your current
9 schedule. We think that's still about right. If we're
10 wrong, we're hoping it's going to be less than 10. And
11 we're working to do that.

12 The defendants have estimated now five to seven
13 trial days for their case. There's going to be some
14 overlap in our cases because the plaintiff intends to call
15 Seth Ravin as part of our case. And we've agreed that they
16 can do their full direct of him and -- following the cross,
17 without any objections as to scope.

18 So saying all that together, it sounds like a
19 three-week trial to us.

20 THE COURT: All right. I appreciate that
21 update.

22 And I would tell you that, and I think I
23 indicated before, I move a trial along fairly quickly.

24 If there are issues that need to be ruled upon
25 or which may require some time to argue, it's my policy to

1 do those either before we start court in the morning or
2 after the jury's been released in the afternoon.

3 Because we're starting at an early time with the
4 jury, the 8:00 a.m. start is an early time, it's most
5 likely that we would be scheduling any needed arguments
6 after the jurors have been excused and into the afternoon
7 session.

8 MR. ISSACSON: I had a number of questions about
9 that from people who were wondering how early we would be
10 rising. So thank you for telling us that.

11 We've also been conferring about any witness
12 issues. There are two additional witnesses from Rimini
13 that we have asked to call in our case. And they are
14 questioning our ability to do that. We're continuing to
15 confer about that. But it's possible that issue would come
16 before the Court before trial.

17 In addition, there are some newly-added
18 witnesses to the witness list. And we are conferring about
19 that as to whether either side needs to bring that issue to
20 court. But neither of those -- we are talking about those
21 things, and neither of them are at loggerheads quite yet.

22 THE COURT: Okay. Let me comment that I
23 appreciate that. And I -- I recognize the professionalism
24 of counsel on both sides, in this case in particular.

25 And I would expect counsel to be able to resolve

1 witness issues. And if you can't, let me know, we'll deal
2 with that. But I certainly expect that of counsel.

3 MR. ISSACSON: And then with regards to trial
4 exhibits, both sides are conferring obviously about
5 objections.

6 We're also conferring about agreeing to a set of
7 trial exhibits for which there'll be no objections and they
8 can be preadmitted and can be immediately used, for
9 example, in opening statements or the first witnesses
10 without having to -- any formal admission.

11 And if the parties agree on that, which I think
12 we will, we'll just be giving you a stipulation on that
13 with the numbers.

14 THE COURT: All right. I would appreciate the
15 stipulation. And, again, it's my policy to encourage that.

16 And I would allow the reference to exhibits and
17 that they could be displayed during the course of opening
18 statements. And I don't need to state the obvious, because
19 I'm sure it won't be a problem, and that is that you really
20 need your tech support people to be prepared and ready to
21 go and present those.

22 One of the worst problems that can ever occur is
23 when that process breaks down somehow in front of a jury.
24 And I don't need to give speeches.

25 MR. ISSACSON: Yes. There's more and more

1 pressure on the tech people these days.

2 THE COURT: Yes.

3 MR. ISSACSON: Those were the issues I just
4 wanted to acquaint you with that the parties have been
5 discussing. I don't know if I missed something or the
6 defendants want to discuss anything else we've been
7 discussing.

8 MR. WEBB: Good morning, Your Honor.

9 THE COURT: Mr. Webb.

10 MR. WEBB: Trent Webb. I think we've -- that
11 covers the outstanding issues. We are hopeful that we will
12 be able to resolve all of these things without involving
13 Your Honor.

14 If, however, we do have an issue, is there a
15 process that we could use to get some relatively quick
16 guidance from Your Honor? Should we do some sort of a
17 telephonic hearing or something -- my concern is that if we
18 ever get to a problem where we can't agree on something, if
19 we go through a briefing process, it may be a while before
20 we have guidance, and we'd like to know as soon as
21 possible, because we are preparing for a significant trial.

22 Is there some process that you would like us to
23 follow if we do have one of those disputes?

24 THE COURT: Well, first of all, if it arises
25 during trial, I'm available for sidebar conferences. And

1 every case is different. But I think that we would be able
2 to identify from the comments at sidebar, which should not
3 take long, whether it need be something that would be
4 addressed later in the day, after the jury has been
5 dismissed, or not.

6 As to issues which may arise prior to trial, I
7 will tell you, you're looking at my trial team here in the
8 courtroom. And my court clerk, Dionna Negrete, is very
9 familiar with issues that arise and bringing them to my
10 attention. So I would say she's your go-to person if you
11 have an issue that you sense is brewing and you need to
12 have some time before me.

13 And my schedule is -- it's a little jammed, but
14 we would fit things in, I'm sure.

15 MR. WEBB: Thank you, Your Honor. Just two more
16 issues.

17 One is instructions. I know we've been working
18 back and forth on trying to do that. Is there a deadline
19 that we -- I understand the deadline may have moved to
20 September 4th -- September 9th.

21 THE COURT: The order regarding trial, I think,
22 addressed that. And it should have -- as I recall, it was
23 Wednesday, September 9th.

24 MR. WEBB: Okay. And then the other issue is we
25 have discussed among the lawyers the possibility of a jury

1 questionnaire that could, at least conceivably, be given to
2 the prospective jurors in advance of trial which would
3 allow us to have some feedback, some information before we
4 go through voir dire.

5 Is there a process that Your Honor would like us
6 to follow? Is that something we can do?

7 THE COURT: Well, essentially where we are is
8 I'm advised that notices have gone out and responses have
9 been received from a total of 200 prospective jurors who
10 are available. Out of that, we probably would -- we're
11 probably dealing with a number of 100. We just have other
12 people if we had to somehow resort to that.

13 As to a questionnaire itself, if you can agree
14 on one and get it to me -- I'm thinking of the Court's
15 schedule -- within the next week -- Dionna, do you have a
16 thought on that? You've been speaking with the jury
17 commissioner down there.

18 COURTROOM ADMINISTRATOR: Well, the
19 questionnaires were sent on August 10th as to their
20 availability and all of that.

21 I'm not sure how -- I mean, she would have to
22 give them to them that morning probably.

23 THE COURT: The likelihood is is that we would
24 have to present them to the prospective jurors when they
25 came in on our commencement date, which is Monday the 14th.

1 But if you had an agreed upon list of questions
2 and we could -- I'm thinking of my schedule. I could
3 review that and consider it in the latter half of next
4 week, which is only 10 days or so before trial. We --
5 there -- we might be able to mail it out. But I -- that's
6 a big if.

7 MR. WEBB: Understood, Your Honor. We will do
8 our best to try to agree upon something and get it to you
9 early next week. So we'll shoot for early next week, Your
10 Honor.

11 THE COURT: All right. That's acceptable.

12 MR. WEBB: And I believe that that's all that we
13 had. Thank you very much.

14 THE COURT: All right. Okay.

15 Mr. Issacson?

16 MR. ISSACSON: I think the only other issue is
17 there's the motion having to do with the designation of
18 documents under the protective order.

19 And if you want to hear about that, Mr. Hixson
20 is prepared to address it.

21 THE COURT: Okay. I am familiar with that.
22 I've looked at it and considered it already. And, again, I
23 expect I will have an order on that. I don't feel that I
24 need argument on it at this time.

25 MR. ISSACSON: Thank you, Your Honor.

1 THE COURT: All right. Are there any other
2 questions?

3 MR. WEBB: Not from defendants, Your Honor.

4 MR. ISSACSON: Not from plaintiff, Your Honor.

5 THE COURT: All right.

6 All right, Counsel. Well, to the extent that we
7 can move this trial along, it's obviously appreciated by
8 everyone. But I think you'll be able to try your cases.

9 All right. Thank you very much. I appreciate
10 those who have personally attended this morning. I
11 appreciate those who are also present by telephone.

12 But at this time, it appears our business is
13 done, and the Court will be in recess. Thank you.

14 COURTROOM ADMINISTRATOR: Please rise.

15 (The proceedings concluded at 10:26 a.m.)

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I certify that the foregoing is a correct
transcript from the record of proceedings
in the above-entitled matter.



8/27/15

Donna Davidson, RDR, CRR, CCR #318
Official Reporter

Date